

★ DEC 22 2016 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
IRINA SHELIKHOVA,

Petitioner,
- against -

ORDER
10-cr-771 (NG)
(16-cv-6861 (NG))

UNITED STATES OF AMERICA,

Respondent.

-----x
GERSHON, United States District Judge:

By motion pursuant to 28 U.S.C. § 2255, petitioner Irina Shelikhova brings various claims of ineffectiveness of counsel and a claim that her plea was not knowing and voluntary. The latter claim is denied as procedurally barred because petitioner presented this claim to the Second Circuit, which found that “Shelikhova's guilty plea was valid” and “her waiver of appellate rights was knowing and voluntary.” *United States v. Khandrius*, 613 F. App'x 4, 9 (2d Cir. 2015), *cert. denied*, *Shelikhova v. United States*, 136 S. Ct. 604 (2015); see *United States v. Pitcher*, 559 F.3d 120, 123 (2d Cir. 2009) (*per curiam*) (“[A] § 2255 petition cannot be used to ‘relitigate questions which were raised and considered on direct appeal.’”) (quoting *United States v. Sanin*, 252 F.3d 79, 83 (2d Cir. 2001)).

Having concluded that the remainder of the motion should not be summarily dismissed, it is **ORDERED** that the government file a complete and entire answer or other pleading to the motion by February 10, 2017. The government is further directed to advise petitioner's trial counsel, Michael Rosen, Esq., that I request that he file an affidavit in response to Ms. Shelikhova's petition no later than January 30, 2017. The government should provide Mr. Rosen with all relevant materials.

Also, on December 12, 2016, Ms. Shelikhova filed a motion to stay the eviction of persons residing at 8686 Bay Parkway, Apartment 2C, Brooklyn, New York pending resolution of her § 2255 petition. The government is further **ORDERED** to respond to Ms. Shelikhova's motion no later than February 10, 2017.

Any response by petitioner to the submissions of Mr. Rosen and the government must be served and filed by March 3, 2017.

SO ORDERED.

/s/ Nina Gershon
NINA GERSHON
United States District Judge

Dated: December 24, 2016
Brooklyn, New York

cc: Irina Shelikhova, 81448-053
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